CHAPTER 9

CONSTRUCTION MANAGEMENT for Public Facilities and Housing

Overview: Chapter 9

- □ Provide for fair and competitive award of all contracts and subcontracts for construction (See Chapter 3, "Procurement")
- Manage construction effectively

□ Assure that construction activities are in compliance with state and federal requirements

Construction Management Responsibilities: Overview and Checklists

- Exhibit 9-M: Construction Management Checklist
- Exhibit 12-A: CDBG Project Monitoring Guide
 - Construction Management Review Section I

Special Concerns for sub-recipients of a CDBG Grant

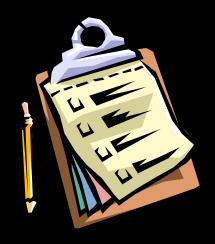
Adoption of an interlocal / subrecipient agreement is required!

- The agreement is between the CDBG grantee (local government) and the subrecipient, and must be submitted to CDBG for review.
- Sample interlocal agreements:
 - Exhibit 9-G (applies if you are a Water/Sewer District)
 - Exhibit 9-I (applies if you are a Non-Profit)
 - Exhibit 9-P (applies to an affordable housing project with multiple funding sources)

Managing a CDBG Construction Project:

Public Facilities or New Housing Construction

CDBG's 14-Step Program for Construction Management



Check out Chapter 9!

Step 1:

Select Engineering and/or Architectural Services RFQ Request For Qualification

- Engineers, architects and surveyors are exempt from price bidding
- MCA calls for a qualifications-based selection procedure for these services when they cost more than \$20,000 and are funded by state and local public agencies.
 - See Chapter 3, Procurement
- Debarment check -- Contact your CDBG liaison
 - See Chapter 6, Labor Standards

Step 2: Prepare A Bid Package

Does your bid package contact all the relevant information?

- □ Review Exhibit 9-J, Checklist for Construction Bid Documents
 - □Your CDBG liaison uses Exhibit 9-J for review!
- □ Plans and Specs must be stamped by licensed architect/engineer
- □ DEQ may need to review and approve the Plans and Specs

Step 2: Prepare A Bid Package The bid package must include:

- ✓ Advertisement for bids
- Method of bidding
- ✓ Bid schedule
- ✓ Bid bond requirements and bid bond form
- ✓ Performance and payment bond requirements
- Notice of award form
- ✓ Notice to proceed form
- ✓ Current federal Davis-Bacon wage rates, as applicable
- General contract conditions and Supplemental Conditions
 - ✓ Exhibit 9-B (CDBG Supplemental Conditions)
 - ✓ Federal Labor Standards Provisions (Exhibit 6-A).

Step 2: Prepare A Bid Package

CDBG encourages the use of <u>Deductive Alternates</u>

Bids exceeding cost estimates are frequently being submitted – the deductive alternatives method gives you a tool to deal with this challenge.

Unit-Priced Contracts with Deductive Alternatives

Under the Deductive Alternatives approach, the bid solicitation would:

- Contain several schedules of work items or components
- Allow contractors to either bid on one component or all components of work items
- Generally provide more competition and price efficiency

Montana Public Works Standard Specifications (5th Edition, March 2003, with 2006 Addendum)

Model Bid Plans and Specs http://www.mtagc.org/docs/mpw-order-form.pdf

NOTE: Under federal law, Montana's contractor bid preference included in these MCA model bid specifications cannot be applied to public construction contracts funded with CDBG funds.

Step 3: Review and Approval of the Draft Bid Document

Before you go to bid . . .

- □ Complete and submit the proposed bid document to your CDBG liaison for review
 - ☐ Also submit Exhibit 9-C, Construction Contract Checklist
 - ☐ Submit the bid document ASAP (30 days) prior to your proposed initial bid advertisement
- □The CDBG grant recipient's attorney should review the bid package.



Keep in contact with your CDBG Liaison

Step 3: Review and Approval of the Draft Bid Document

Before you go to bid . . .

- If bid documents are OK -- CDBG will authorize you to advertise for bids.
 - □ Approval from other funding agencies
- ☐ If not, CDBG will specify what needs to be addressed or changed.



Keep in contact with your CDBG Liaison

Step 4: Advertise A Bid Solicitation

Advertising for Contracts over \$50,000

- Municipalities
 - ☐ Must Advertise 2x and at least 6 days apart
 - □ 2nd publication must be not less than 5 days or more than 12 days before the bid opening
- Counties
 - ☐ Must advertise 2x and at least 6 days apart
- ☐ You must advertise in a local newspaper.
- MDOC strongly recommends that CDBG recipients also advertise at least once in a newspaper with regional distribution.
- ☐ You should publish Exhibit 5-B, Section 3 Public Notice

Step 4: Advertise A Bid Solicitation

You can... Utilize plan exchanges and bid clearinghouses, such as those administered by the Montana Contractors Association Conduct a pre-bid conference You should . . . ☐ Publish Exhibit 5-B, Section 3 Public Notice You must . . . Take affirmative steps to reach out to and inform Disadvantaged **Business Enterprises (DBE)** Any amendments to the bid must be mailed as addendum to each bidder Include current Davis-Bacon Wage Rate Determination

Step 5: Log Each Bid

Bids should be logged as to time and date of receipt

AND

Bids should remain sealed and safely stored until opening



Step 6: Conduct Bid Opening

Contracts must be awarded

- Fairly
- In a manner that ensures public funds are used efficiently
- In a business-like manner

Additionally . . .

- CDBG grant recipient's attorney
- Irregularities
 - The amounts should not be read or considered and the bid should be returned to the bidder

Bid Irregularities

- Example of <u>irregularities that call for rejection of bids</u>
 - A contractor submitting a bid is not registered
- Examples of minor bid irregularities that may be waived
 - Omission of date signed or title of person signing

All bids exceed the amount of funds available

Option 1

Use additional local financing resources

Option 2

Modify the bid package - repeat the entire bid process

<u>Under NO circumstances</u> can the CDBG recipient negotiate with the low bidder to bring the offer in line with the project budget.

Step 7: Review The Low Bid

The low bid should be reviewed to ensure that:

- ✓ the bid submission is technically and legally responsive to the solicitation;
- ✓ the contractor and all subcontractors are <u>qualified</u> and have the ability to carryout the project as scheduled.

What if the low bid proves to be unsatisfactory?

A statement of justification must be sent to the low bidder with a copy retained in the construction contract file.

Step 8: Debarment Check

Prior to awarding the contract verify the low bidders eligibility through a debarment check	
□ Provide the name of prospective contractor firm	
□Provide the name of its principal owner(s)	
☐Your CDBG liaison will check:	
☐ the State of Montana Debarred Vendors list:	
http://gsd.mt.gov/procurement/debarredsuspendedve dors.asp	en
☐ the federal government's "List of Parties Excluded from Federal Procurement or Nonprocurement Programs"	

http://epls.arnet.gov/

Step 9: Award A Contract

The contract award should be made within 30 days of the bid opening

Provide a complete contract package to CDBG.

The contract package should consist of:

- ✓ an executed contract document;
- ✓ the bid package;
- ✓ the contractor's bid proposal;
- √ bond and insurance forms; and
- ✓ signed contractor certifications.

Step 10: Hold A Pre-Construction Conference

WHO WHAT to review **Review Project and Timetable** CDBG Grant Recipient Method of Payment Grantee's Engineer / Architect Contractor responsibilities Prime Contractor Engineer or Architects responsibilities All subcontractors Communication Funding agency representatives (that includes your CDBG liaison) **Grant Administrator** WHAT to document Possibly others Minutes of the pre-construction conference **WHEN** Attendance list Evidence that all Contractors and Soon after the contract is awarded Subcontractors received items listed in CDBG pre-construction planning

guide (Exhibit 6-E)

Step 11: Issue A Notice to Proceed

After the contract and the pre-construction conference is executed

- □ Issue a Notice to Proceed
 - □establish the construction starting date and the estimated date of completion.
- □ Send CDBG a Notice of Contract Award and Preconstruction Conference, including the date on which construction will start. (Exhibit 9-D)

Step 11: Issue A Notice to Proceed

Remember . . .

Communicate often with your CDBG liaison



Step 12: Monitor Contractor Activities

CDBG grant <u>recipients</u> are responsible for monitoring the performance of their contractor(s)

- □ Chapter 6 Labor Standards
- □ Chapter 5 Civil Rights
 - ☐ Exhibit 5-J, Contract Reporting Form
 - ☐ Publish Exhibit 5-B, Section 3 Public Notice
 - ☐ Exhibit 9-L, Section 3 Summary Report
- Other requirements
 - ☐ Grant administrator must conduct regular compliance monitoring

Step 12: Monitor Contractor Activities

CDBG must approve certain change orders. Submit to CDBG review and approval all change orders that would:

- □ affect the budget by \$5,000 or
- affect the approved project scope.

Retainage

<u>Retainage</u>

- Payments may be made up to 95 percent of the total amount of compensation in the contract.
- Grantees will pay the withhold the remaining 5% retainage pending final inspection and acceptance of the work by the grantee.

Contractors' 1% Gross Receipts Tax

Contractor's 1% Gross Receipts Tax

- ❖The CDBG recipient must retain 1% of the total amount of each partial payment due to the contractor.
- ❖This 1% is sent to the Montana Department of Revenue for the Contractor's Gross Receipts Tax.
- Possible Exception
 - Project construction is funded by a public entity
 - The building will be maintained and owned by a public nonprofit

Step 13: Conduct A Final Inspection

- ☐ The architect or engineer must provide a set of "as-built" plans with the request for final payment.
- □ Before final payment to a contractor (less the retainage), the grantee must:
 - ✓ conduct a final inspection of the construction work;
 - ✓ determine whether all federal and state requirements (such as labor standards) have been satisfied; and
 - ✓ determine that all contract files are complete.

Step 14: Maintain Records

All documentation listed should be kept in the Construction Management file.

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Step 14.1: Celebrate, you have a well constructed project!

